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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,044	05/04/2001	Dusan Pavcnik	PA-5252-RFB	9073

9896 7590 05/05/2003

COOK GROUP PATENT OFFICE  
P.O. BOX 2269  
BLOOMINGTON, IN 47402

EXAMINER
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STEWART, ALVIN J

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 05/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/849,044

Applicant(s)

PAVCNIK ET AL.

Examiner

Alvin J Stewart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 July 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: attachment A

## **DETAILED ACTION**

### ***Request for Continued Examination***

The request filed on March 17, 2003 for a Request for Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 09/849,044 is acceptable and a RCE has been established. An action on the RCE follows.

### ***Response to Arguments***

Claims 2, 10 and 11 are canceled.

Applicant's arguments with respect to claims 1 and 3-9 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 3-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Douglas US Patent 6,090,128.

Douglas discloses a stent-graft comprising at least one stent and a sleeve made of collagen (see col. 2, lines 37-39). The stent has a distal end, a proximal end and a lumen extending therethrough between the proximal and distal ends. The sleeve has a length about equal to twice the length of the at least one stent, a first portion extending along the inside

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surface of the stent and a second portion folded back over the proximal end of the stent and then along an outside surface of the stent distal end (see attachment).

The term "extracellular matrix" has been given their broadest reasonable interpretation. In re Pearson, 181 USPQ 641 (CCPA 1974). The word "matrix" in the Merriam-Webster Dictionary means --- something within or from which something else originates, develops, or takes form---. Therefore, the porous synthetic sleeve formed by knitting or weaving can be interpreted as the matrix and the word "extracellular" has been interpreted as the promotion of cell tissues. Finally, the length of the covering sleeve starts at point A and ends at point C (see attachment).

Regarding claim 3, Figs. 2 and 4 disclose a plurality of stents connected together to form a stent frame and the sleeve extending along the plurality of stents.

Regarding claim 4, see Figure 2.

Regarding claims 5-7, see col. 9, lines 10-20 and Figure 2.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Douglas US Patent 6,090,128 in view of Babbs et al WO 98/25544.

Douglas discloses the invention substantially as claimed. However, Douglas does not disclose a sleeve made of SIS and having two opposite edges connected together by a seam.

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Babbs teaches a deploying catheter having a balloon and a stent-graft on top of the balloon. The stent is made of biocompatible material and the graft is made of SIS (see page 6, lines 21-23) having two opposite edges connected together by a seam (see Fig. 2) for the purpose of repairing the inner lining of a damaged vessel.

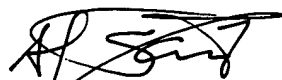
It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the collagen sleeve mentioned in the Douglas reference with the SIS sleeve of the Babbs reference in order to increase the biocompatibility of the material and repairs the inner lining of a damaged vessel.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J Stewart whose telephone number is 703-305-0277. The examiner can normally be reached on Monday-Friday 7:00AM-5:30PM(1 Friday B-week off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 703-308-2111. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-308-2708 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.



Alvin Stewart  
April 23, 2003

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# ATTACHMENT: A

